

STATE OF HAWAII
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
Honolulu, Hawai'i

April 11, 2008

FILE NO.: CC HA-06-03
Existing 180-Day Exp.: May 5, 2008
Proposed 180-Day Exp.: November 30, 2008

**Board of Land and
Natural Resources**
State of Hawai'i
Honolulu, Hawai'i

REGARDING: Request to Extend the Processing Period in Order to Process a Contested Case Hearing for Conservation District Use Application (CDUA) HA-3269 for the Cohen Single Family Residence (SFR)

APPLICANT: Jonathan Cohen,
c/o J. Douglas Ing and Brian K. Kang; Watanabe Ing & Komeji LLP
First Hawaiian Center, 999 Bishop Street, 23rd Floor, Honolulu, HI 96813

LANDOWNER: Aloha Properties, LLC

LOCATION: Pao'o, North Kohala, Island of Hawai'i

TMK: (3) 5-7-001:005

AREA OF PARCEL: ≈10.61 acres

USE: ≈ 5,000 square feet (ft²)

SUBZONE: Resource

BACKGROUND:

On April 19, 2006, Roy A Vitousek, III, Esq., acting on behalf of applicant Jonathan Cohen, requested a Contested Case hearing to challenge the Office of Conservation and Coastal Land's recommendation to deny Mr. Cohen's Conservation District Use Application (CDUA) HA-3269 to construct a single family residence at the above mentioned parcel in Pao'o, North Kohala, Hawai'i.

Two other intervenors subsequently petitioned to be party to the case: *Maika'i Kamakani 'O Kohala, Inc.* and *Kamakani 'O Kohala Ohana, dba Kako'o.*

On January 15, 2008 Notice was given that the law firm of Watanabe Ing & Komeji LLP was entering its appearance as co-counsel with the law firm of Cades Schutte in the matter for the petitioner.

TIME EXTENSION REQUESTS:

The Board of Land and Natural Resources has granted six requests to extend the processing period on this application. The current expiration deadline is May 5, 2008.

The Evidentiary Hearing on the Contested Case was held in Kapa'au, Hawai'i from March 10-14, 2008. An additional day of testimony has been scheduled for April 28, 2008. Final resolution is not expected for several more months.

On February 14, 2007 OCCL received a request from Mr. Douglas Ing to extend the processing period an additional six and one half months, to November 30, 2008 [**Exhibit 1**].

AUTHORITY FOR GRANTING EXTENSIONS:

The authority for granting time extensions to the CDUA processing period is provided in Section 183C-6(b), HRS, which states that "...when a contested case hearing is required pursuant to Chapter 91, the one-hundred eighty days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the Board."

DISCUSSION:

Mr. Ing's request to extend the processing period an additional six and one half months would make the new deadline November 30, 2008. Staff supports the applicant's request.

Staff, therefore, recommends as follows:

RECOMMENDATION:

That the Board of Land and Natural Resources grant Mr. Ing's request to extend the processing period on CDUA HA-3269 6 ½ months – bringing the deadline to November 30, 2008.

Respectfully submitted,



Michael Cain
Staff Planner

Approved for submittal:



LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

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ING
&
KOMEIJI

LLP

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J. Douglas Ing
douging@wik.com

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

VIA HAND-DELIVERY

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

RE: Request for an Extension of the Processing Period for Conservation District Use Application (CDUA) HA-3269 for a Single Family Residence (SFR) Located at Pao'o, North Kohala, Island of Hawaii, TMK (3) 5-7-001:005

Dear Mr. Lemmo:

The purpose of this letter is to request a six-and-a-half-month extension of the processing period with respect to the above-referenced conservation district use permit application. On October 12, 2007, at agenda item K-6, the Board of Land and Natural Resources previously approved a six-month extension of the decision period to May 5, 2008. A contested case proceeding on this matter is currently in progress and the evidentiary hearings are almost complete. Final resolution of the contested proceedings before the hearing officer is not expected for several months.

Therefore, on behalf of Applicant, Jonathan Cohen, we respectfully request an extension of this CDUA's processing period to November 30, 2008, so as to include the Board's November meeting dates. Please let us know if you have any questions or need additional information to process this request. Thank you.

Very truly yours,

WATANABE ING & KOMEIJI LLP

By 
J. Douglas Ing

cc: ✓ Michael Cain (via hand-delivery)
Jonathan Cohen (via email)

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EXHIBIT 1